

रजिस्टर्ड नं० पी० ६७



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, सोमवार, ६ दिसम्बर, १९६८/१८ अग्रहायण, १८६०

GOVERNMENT OF HIMACHAL PRADESH

VIDHAN SABHA SECRETARIAT

NOTIFICATION

Simla-4, the 5th December, 1968

No. 1-69/68-VS.—In pursuance of Rule 135 of the Rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly 1964, the Capital of Himachal Pradesh (Development and Regulation)

१२३८ असाधारण राजपत्र, हिमाचल प्रदेश, ६ दिसम्बर, १९६८/१८ अग्रहायण, १८६०

Bill, 1968 (Bill No. 50 of 1968) as introduced in the Legislative Assembly on the 5th December, 1968 is hereby published in the Himachal Pradesh Government Gazette.

SURENDRA NATH,
Under Secretary.

Bill No. 50 of 1968

**THE CAPITAL OF HIMACHAL PRADESH (DEVELOPMENT
AND REGULATION) BILL, 1968**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to re-enact and modify the law in relation to the development and regulation of municipal affairs of the Capital Town of Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Nineteenth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Capital of Himachal Pradesh (Development and Regulation) Act, 1968.

(2) It extends to the local area comprised within the Municipality of Simla immediately before the commencement of this Act, and such other area as may, from time to time, be included by the State Government within the limits of the Corporation by a notification in the Official Gazette under section 25.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

- (a) 'Administrator' means an officer appointed as such by the State Government, by notification in the Official Gazette, to perform the functions of the Administrator under this Act;
- (b) 'Corporation' means the Simla Municipal Corporation as constituted under section 5 of this Act;
- (c) 'Deputy Commissioner' means the Deputy Commissioner of the District of Simla and includes any person appointed by the Government to perform the functions of the Deputy Commissioner under this Act;

Provided that no person shall be so appointed unless he has for three years exercised the powers of the Magistrate 1st Class;

- (d) 'Government' or 'State Government' means the Government of Himachal Pradesh;
- (e) 'Municipal Act' means the Punjab Municipal Act, 1911, as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966;
- (f) 'Municipal Committee' means the Municipal Committee of the Municipality of Simla;
- (g) 'Municipality' or 'Municipality of Simla' or 'Simla Municipality' means the Simla Municipality as constituted under the provisions of the Municipal Act;
- (h) 'notification' means notification published under proper authority in the Official Gazette;
- (i) 'Official Gazette' means the Rajpatra, Himachal Pradesh;

Short title,
extent and
commence-
ment.

Definitions

3 of 1911

31 of 1966

- (j) 'prescribed' means prescribed by rules made under this Act;
- (k) 'Scheduled Castes' has the same meaning as assigned to it in clause (24) of Article 366 of the Constitution;
- (l) 'Town Improvement Act' means the Punjab Town Improvement Act, 1922, as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.

31 of 1966

CHAPTER II

WITHDRAWAL OF SIMLA MUNICIPALITY FROM THE MUNICIPAL ACT AND ITS EFFECTS

Withdrawal of Simla Municipality from the Municipal Act.

3. (1) On and from the commencement of this Act, the local area comprised within the Municipality of Simla immediately before the commencement of this Act, shall be deemed to have been withdrawn from the operation of the Municipal Act:

Provided that the Simla Improvement Trust constituted under section 3 of the Town Improvement Act, shall in the town of Simla continue to exercise powers and perform duties conferred by or under the Town Improvement Act, or any other law for the time being in force, as if the Municipality of Simla had not been withdrawn from the operation of the Municipal Act and for this purpose, the Corporation constituted under this Act, shall be deemed to be the Municipal Committee for the purpose of that Act.

(2) The withdrawal under sub-section (1) shall not revive any office, authority or thing abolished by the Municipal Act or affect the validity of anything done or suffered, or any right, title, obligation or liability accrued thereunder, before the commencement of this Act.

(3) Nothing herein contained shall deprive any person of any right to property or other private right except as hereinafter provided.

Transfer of liabilities.

4. (1) All debts and obligations incurred by, and all contracts entered into with, and all matters and things engaged to be done by, the Municipal Committee, before this Act comes into force shall be deemed to have been incurred, entered into with, or engaged to be done by, or for, the Corporation as constituted under this Act.

(2) Every appointment, rule, bye-law, form, notification, notice, tax, fee, scheme, order, licence or permission issued, imposed, sanctioned or given under the Municipal Act, shall, so far as it relates to the Municipality of Simla and so far as it is in force immediately before the commencement of, and is not inconsistent with, this Act, be deemed to have been made, issued, imposed, sanctioned or given under the provisions of this Act; and shall, unless previously altered, modified, cancelled, suspended, surrendered or withdrawn, as the case may be, under this Act, remain in force for the period, if any, for which it was so made, issued, imposed, sanctioned or given.

(3) All rates, taxes and sums of money due to the Municipal Committee, immediately before the commencement of this Act, shall be deemed to be due to the Corporation as constituted under this Act.

(4) All suits or other legal proceedings, civil or criminal, instituted, or which might but for the passing of this Act have been instituted, by or against the Municipal Committee may be continued by or against the Corporation as constituted under this Act.

CHAPTER III

CONSTITUTION OF CORPORATION AND OTHER MATTERS CONNECTED THEREWITH

5. (1) The area to which this Act extends including the area as may, from time to time, be included within the limits of the Corporation under section 25, shall be a Municipal Corporation under this Act to be called the 'Simla Municipal Corporation'.

Constitution of Corporation.

(2) The Corporation shall consist of one Administrator and eight members:

Provided that on the inclusion of any area within the limits of the Corporation under section 25, the State Government may appoint such additional members as it thinks fit.

6. The Administrator and all the members of the Corporation shall be appointed by the State Government, by notification, in such manner as may be prescribed:

Appointment of members.

Provided that, out of the members so appointed, at least one shall be a woman and one belonging to Scheduled Castes.

7. (1) The term of office of *ex-officio* members shall, unless the State Government otherwise directs, be coterminous with the term of office by virtue of which they are appointed or five years whichever is less.

Term of office of members.

(2) The term of office of other members shall be five years.

(3) The term of office of every person appointed under proviso to sub-section (2) of section 5 shall be coterminous with the term of office of the members appointed under that sub-section.

8. A person to be appointed as an Administrator or a member, other than the one who is appointed by virtue of his office, shall be a person residing within the local limits of the Corporation for such period as may be prescribed, and shall have attained the age of 25 years on the day of his appointment.

Qualifications for appointment of the Administrator and members.

9. No person shall be eligible for appointment as an Administrator or a member, if he—

Disqualifications of members etc.

(a) is not a citizen of India; or

(b) has been adjudged by a competent court to be of unsound mind; or

(c) has been sentenced by any court to imprisonment for an offence involving moral turpitude and punishable with imprisonment for a term exceeding six months, unless a period of five years or such period as the State Government may allow in any particular case, has elapsed since his release; or

(d) has been dismissed from the service of the Government for misconduct; or

(e) has been dismissed for misconduct from the service of any municipal corporation, municipality, notified area committee, small town committee, district board, cantonment board, panchayat samiti, zila parishad or gram panchayat; or

(f) has, directly or indirectly, any share or interest in any contract with, by or on behalf of, the Corporation; or

(g) is an undischarged insolvent; or

(h) having been adjudged or readjudged an insolvent is under any disqualification imposed by section 73 of the Provincial Insolvency Act, 1920; or

(i) has not paid all taxes due by him to the Corporation at the end of the financial year immediately preceding that in which the appointment is held or made; or

(j) is, under the provisions of any law for the time being in force, ineligible to be a member of any local authority:

Provided that a disqualification under clause (d), (e) or (j) may be removed by an order of the State Government in this behalf.

Explanation.—A person shall not, by reason of being a share-holder in or a member of any incorporated or registered company, be deemed to be interested in any contract entered into between the company and the Corporation.

Resignation
of members
etc.

10. If the Administrator or a member of the Corporation wishes to resign his office, he shall submit an application in writing through the Deputy Commissioner to the State Government. If such resignation is accepted, it shall be notified in the Official Gazette on a date not less than 15 days after the receipt of the said member's application by the Deputy Commissioner whereupon the member shall be deemed to have vacated his seat:

Provided that if the Administrator or a member who has submitted an application to resign wishes to withdraw his resignation, he may apply to the Deputy Commissioner within 15 days of the receipt by the Deputy Commissioner of his application to resign, and the application to resign shall be deemed to have been withdrawn.

Powers of
State Gov-
ernment as
to removal
of members,
etc.

11. The State Government may, at any time, by notification, remove the Administrator or any member of the Corporation,—

(a) if he refuses to act, or becomes, in the opinion of the State Government, incapable of acting, or has been declared a bankrupt or an insolvent or has been convicted of any offence or subjected by a criminal court to any such order as implies, in the opinion of the State Government, a defect of character which unfits him to be an Administrator or a member, as the case may be;

(b) if he has been declared by notification to be disqualified for employment in, or has been dismissed from, the public service and the reason for the disqualification or dismissal is such as implies in the opinion of the State Government a defect of character which unfits him to be an Administrator or a member, as the case may be;

(c) if he has without reasonable cause in the opinion of the State Government absented himself for more than three consecutive months from the meetings of the Corporation;

(d) if his continuance in office is, in the opinion of the State Government, dangerous to public peace or order;

(e) if, in the opinion of the State Government, he has flagrantly abused his position as an Administrator or a member, as the case may be, of the Corporation or has through negligence or misconduct been responsible for the loss or misapplication of any money or property of the Corporation;

(f) if, being a legal practitioner, he acts or appears in any legal proceeding on behalf of any person against the Corporation, or on behalf of or against the Government where in the opinion of the State Government such action or appearance is contrary to the interests of the Corporation:

Provided that before the State Government notifies the removal of the Administrator or a member under this section, the reasons for his proposed removal shall be communicated to him and he shall be given an opportunity of tendering an explanation in writing.

12. Whenever a vacancy occurs by the death, resignation or removal or otherwise of the Administrator or any member, a new Administrator or a member, as the case may be, shall be appointed in accordance with the provisions of section 6:

Filling of casual vacancies.

Provided that if the out-going member was appointed against any of the reserved vacancies, then the member to be appointed to fill a casual vacancy shall be a person qualified to fill that reserved seat:

Provided further that every person appointed to fill a casual vacancy shall hold his seat for the time for, and subject to the condition upon which, it was tenable by the person in whose place he has been so appointed, and no longer, but he may, if otherwise qualified, be re-appointed.

13. If any person having been appointed as an Administrator or a member subsequently becomes subject to any disqualification specified in section 9, and such disqualification is not removable, or being removable is not removed, such person shall cease to be the Administrator or a member, as the case may be, immediately after the State Government has published in the Official Gazette a notification declaring his seat to be vacant.

Effect of subsequent disabilities.

14. (1) Every person who is appointed as an Administrator or a member shall, before taking his seat, make and subscribe before such person as the State Government may appoint in this behalf an oath or affirmation in the following form, that is to say—

Declaration by Administrator and members.

"I, A. B., having been appointed as an Administrator/a member of the Simla Municipal Corporation swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established and that I will faithfully discharge the duty upon which I am about to enter."

(2) Any person, who having been appointed as an Administrator or a member, fails to make and subscribe, within three months of the date on which his term of office commences, an oath or affirmation laid down in sub-section (1), shall cease to hold office and his seat shall on the expiry of the said period of three months be deemed to have become vacant.

15. (1) The Corporation shall, by the name of the 'Simla Municipal Corporation' be a body-corporate, and may, in that name, sue or be sued.

Incorporation of Corporation.

(2) The Corporation shall have power to acquire and hold property both movable and immovable, within or without the limits of the Corporation and subject to the provisions of this Act or any rules made thereunder, to transfer any property held by it, to contract and to do all other things necessary for the purposes of its constitution.

CHAPTER IV CONDUCT OF BUSINESS

16. The Corporation shall meet not less than once a month for the transaction of business.

Meetings

17. (1) A meeting of the Corporation shall be either ordinary or special.

Convening of meetings.

(2) The date of every meeting shall be fixed by the Administrator.

(3) Notice of every meeting, specifying the time and place thereof and the business to be transacted thereat, shall be despatched to every member and exhibited at the municipal office, seven clear days before an ordinary meeting and three clear days before a special meeting:

Provided that if the notice is exhibited at the municipal office, failure to serve it on any member shall not affect the validity of a meeting.

(4) No business other than that specified in the notice relating thereto shall be transacted at a meeting:

Provided that it shall be competent for the Corporation to transact any business at a meeting other than that set forth in the notice if all the members present at that meeting agree to do so.

Power of Administrator to call special meetings.

18. The Administrator may, whenever he thinks fit, call a special meeting, and shall be bound to do so within two weeks of the receipt of a written requisition signed by not less than three members.

Adjournment.

19. Any meeting of the Corporation may, with the consent of the majority of the members present at that meeting, be adjourned to any other date; but no business other than that left over at the adjourned meeting shall be transacted at the next meeting.

A notice of such adjournment posted in the municipal office on the day on which the meeting is adjourned shall be deemed sufficient notice of the next ensuing meeting.

Chairman of meeting.

20. (1) The Administrator, if present, shall preside over the meetings of the Corporation, and shall be entitled to vote.

(2) If the Administrator is absent from a meeting of the Corporation, the members shall choose one of their number to preside.

Quorum

21. (1) No business shall be transacted at any meeting of the Corporation, unless a quorum of—

(i) one-third of the total number of members, in the case of an ordinary meeting; and

(ii) one-half of the total number of members, in the case of a special meeting,

including the presiding authority, is present throughout the meeting:

Provided that the provision of this sub-section regarding quorum shall not apply to an adjourned meeting.

(2) If, at any meeting, there are, at any time, not sufficient members to form a quorum, the Chairman of the meeting shall adjourn it to such time or date, not being earlier than the third day, as he thinks fit and announce the same at once; and the business set down for the meeting shall be brought forward in the usual manner at the subsequent meeting, or if the subsequent meeting should again be adjourned, then at any meeting.

(3) No business other than the business fixed for the original meeting shall be transacted at any such subsequent meeting.

(4) A notice of adjournment exhibited in the municipal office on the day on which the meeting is adjourned shall be sufficient notice of the subsequent meeting.

Disability of members for voting etc.

22. No member or Administrator shall vote or take part in the discussion of any matter before a meeting or ask any question concerning any matter in which he has, directly or indirectly, by himself or his partner, any share or interest in any contract, grant or employment with, by or on behalf of, the Corporation, or in which he is professionally interested on behalf of a client, principal or other person.

Vote of majority decisive.

23. Except as otherwise provided by or under this Act, all acts authorised or required to be done by the Corporation, and all questions brought before any meeting held under this Act, shall be respectively done and decided

by a majority vote of persons present and entitled to vote and in the case of an equality of votes, the presiding authority at the meeting shall have a second or casting vote.

24. The Corporation may make bye-laws, consistent with this Act, and the rules made thereunder and subject to the approval of the State Government, for the conduct of the business at its meetings.

Power of Corporation to make bye-laws.

CHAPTER V

INCLUSION OF CERTAIN AREAS WITHIN THE LIMITS OF CORPORATION

25. The State Government may, by notification and in such manner as it may determine, include within the limits of the Corporation any specified area in the neighbourhood of Simla.

Power of State Government to include certain areas within the limits of Corporation.

26. (1) When the said area is included within the limits of the Corporation under section 25, then—

Effect of inclusion.

- (a) the Municipal Act, or the Himachal Pradesh Panchayat Raj Act, 1952, or the Punjab Gram Panchayat Act, 1952, or the Punjab Panchayat Samitis and Zila Parishads Act, 1961, as the case may be, if in force in such area, shall be deemed to be repealed therein:

Provided that the repeal of any such Act shall not—

- (i) revive any office, authority or thing abolished by the said Act or affect the validity of anything done or suffered, or any right, title, obligation or liability accrued thereunder, before the commencement of this Act; or
- (ii) deprive any person of any right to property or other private right except as hereinafter provided;
- (b) all rates, taxes, fees and sums of money due to a body incorporated under any of the Acts repealed under clause (a) in respect of the area included, shall be deemed to be due to the Corporation;
- (c) all debts and obligations incurred by, and all contracts entered into with, and all matters and things engaged to be done by the body incorporated as aforesaid, before the inclusion of the said area, shall be deemed to have been incurred by, entered into with, or engaged to be done by, or for, the Corporation as constituted under this Act;
- (d) all suits or legal proceedings, civil or criminal, instituted, or which might but for the inclusion of the said area within the limits of the Corporation have been instituted, by or against the body incorporated as aforesaid, may be continued or instituted by or against the Corporation;
- (e) subject to the other provisions of this Act and except as the State Government may, otherwise, by notification, direct, all rules, bye-laws, regulations, orders, directions and powers made, issued or conferred under this Act and in force at the date of inclusion should apply to the said area, in supersession of all corresponding rules, bye-laws, regulations, orders, directions and powers made,

issued or conferred or deemed to have been made, issued or conferred under the Municipal Act, the Himachal Pradesh Panchayat Raj Act, 1952, the Punjab Gram Panchayat Act, 1952, or the Punjab Panchayat Samitis and Zila Parishads Act, 1961, as the case may be.

6 of 1953
4 of 1953
3 of 1961

(2) The State Government may issue such orders as may be necessary to give effect to the inclusion of the said area and any matter incidental or ancillary thereto.

CHAPTER VI SUPPLEMENTAL PROVISIONS

Adminis-
trator, mem-
bers, etc.,
deemed to
be public
servants.

27. The Administrator and every member, every officer or servant, of the Corporation shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Municipal
Fund.

28. There shall be constituted for the Corporation a fund to be called the Municipal Fund, and there shall be placed to the credit thereof—

- (a) all sums received by, or on behalf of, the Corporation under this Act or otherwise;
- (b) the balance at the credit of the Municipal Fund of the Municipality of Simla immediately before the commencement of this Act; and
- (c) the balance at the credit of a body incorporated under any of the Acts to be repealed under section 26, immediately before such repeal.

Vesting of
property.

29. (1) All the property of whatever nature and kind, whether movable or immovable and whether situated within or without the limits of the Municipality, including all interests of whatever nature therein which vested in, and were under the control of, the Municipal Committee of the Municipality of Simla immediately before the commencement of this Act, including the balance of Municipal Fund standing at its credit shall vest and be under the control of the Corporation.

(2) All the property of whatever nature and kind, and wherever situated, which vests in, and is under the control of, a body incorporated under any of the Acts to be repealed under section 26, immediately before such repeal, including the balance of the fund standing at its credit, shall on such repeal vest and be under the control of the Corporation.

Employees
of the
Municipa-
lity, etc. to
be employe-
es of the
Corpora-
tion.

30. Every person who is an employee and servant of the Municipal Committee immediately before the commencement of this Act or of a body incorporated under any of the Acts to be repealed under section 26(1)(a), immediately before such repeal, shall become an employee and servant of the Corporation, and shall hold office by the same tenure and at the same remuneration and on the same terms and conditions as he would have, but for such commencement or such repeal, as the case may be, held the same, and shall continue to do so unless and until such tenure, remuneration and terms and conditions are duly altered by the Corporation:

Provided that—

- (i) the tenure, remuneration and terms and conditions of service of any such employee or servant shall not be altered to his disadvantage

without the previous sanction of the Government;

- (ii) any service rendered by any such employee or servant before such commencement or such repeal, as the case may be, shall be deemed to be service rendered in connection with the Corporation;
- (iii) and the Corporation may employ any such employee or servant in the discharge of such functions as the Corporation may think proper and every employee or servant shall discharge those functions accordingly.

31. Notwithstanding the provisions of section 3, all the provisions of the Municipal Act, except those pertaining to the matters for which provision has been made under this Act, shall, *mutatis mutandis*, and in so far as they are not inconsistent with the provisions of this Act, apply to, and come into force within the limits of, the Corporation, as if it is a Municipality of 1st Class; and those provisions shall be deemed to form part of this Act:

Provided that in the said Act, unless a different intention appears,—

- (a) all references to the Municipality or Municipal Committee in whatever form shall be construed as references to the Corporation; and
- (b) all references to the President or the Vice-President shall be construed as references to the Administrator.

32. The term of office of the Administrator, who shall be a whole-time functionary, shall be five years. He shall receive such salary and be entitled to such amenities and shall exercise such other powers and perform such other duties, as may be prescribed:

Provided that when the Administrator is a member of a Civil Service or holds a lien on any civil post under the Government, he shall be liable to be called by the State Government at any time in the exigencies of public service of which the State Government shall be sole judge.

33. (1) The Government may, by notification, make rules for carrying out the provisions and intentions of this Act, and particularly for the matters which may be, or are to be, prescribed.

(2) The rules made under this Act shall, as soon as may be after they are made, be laid before the Legislative Assembly.

34. All the powers and duties of the Corporation may, until the Corporation is constituted, be exercised and performed by such person as the State Government may appoint in that behalf.

35. If any difficulty arises in relation to the transit period, that is, the period from the day on which this Act comes into force and until the Corporation is duly constituted, or in giving effect to the provisions of this Act, the Government may, by order, do anything not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient for the purpose of removing the difficulty.

36. The State Government may require the Administrator to furnish it with—

- (a) any return, statement, estimates, statistics or other information regarding any matter under the control of any municipal authority;
- (b) a report on any such matter; or
- (c) a copy of any document and any record in his charge or under his control.

Application of the provisions of the Municipal Act to Corporation.

Term of office, etc. of Administrator.

Power to make rules.

Transitional provision.

Removal of difficulty.

Power of State Government to require returns.

Power of
State Gov-
ernment to
issue direc-
tions.

37. The State Government may give directions, consistent with the provisions of this Act and the rules made thereunder, to the Corporation as and when it thinks it necessary and the Corporation shall follow such directions.

STATEMENT OF OBJECTS AND REASONS

It has been under consideration of this Government for some time past that for the development of Simla Town and its suburbs and for the management of municipal affairs thereof, some concrete steps be taken and this can only be done if there is a separate legislation for the purpose. The Bill seeks to achieve the aforesaid object.

HARI RAM,
Transport Minister.

D. B. LAL,
Secretary (Judicial).

SIMLA:
The 5th December, 1968.

FINANCIAL MEMORANDUM

Nil

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 33 of the Bill empowers the State Government to make rules for carrying out the provisions and intentions of the Bill and particularly for the matters which may be, or are to be, prescribed. These rules shall, as soon as may be after they are made, be laid before the Legislative Assembly. Similarly, clause 24 gives power to the Corporation to make bye-laws, consistent with this Bill and rules made thereunder, and also subject to the approval of the State Government, for the conduct of the business at its meetings.

